

REMARKS

Applicant submits these remarks in response to the Office Action dated January 13, 2005 ("Office Action"). Applicant believes that no fee is due since this response is timely filed. However, in the event that Applicant is incorrect in their calculation, please charge any fee due in connection with this submission to Deposit Account No. 50-2212, Order Number 053403.027.2574.

Claim 1 has been amended for clarity.

Examiner states that claims 4-13, 15-31, 33-48 and 59-76 are allowed over the prior art of record.

Examiner rejects the remaining claims under 35 U.S.C. §102(b) and 35 U.S.C. § 103(a) in light of Fuller et al, U.S. Patent No. 4,893,335.

The Examiner has rejected claims 1, 13, 15, 17, 31, 33, 35, 49, 51, 53 and 58 under 35 U.S.C. § 102(b) as being anticipated by Fuller et al, U.S. Patent No. 4,893,335. Office Action at page 2-3. Applicant respectfully asserts that this rejection is improper.

"Anticipation under 35 U.S.C. § 102 requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention." *Apple Computer, Inc. v. Articulate Systems, Inc.*, 234 F.3d 14, 57 (Fed. Cir. 2000). Additionally, the reference must arrange the elements in the same manner as claimed. *C.R. Bard, Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1348 (Fed. Cir. 1998).

Aspects of the presently claimed invention include a method, apparatus, and computer-readable-medium to enable users to passively block unwanted calls, i.e., ***the caller does not know that they are being blocked, and the unwanted call is never answered.*** The claimed invention facilitates identifies the caller using caller identification ("caller ID"), and passively blocks the call from an unwanted caller. In contrast, unlike aspects claimed in the present invention, Fuller et al ***teaches away from the claimed invention.*** The "call screening" of Fuller et al teaches: "In a call screening mode, the control system answers incoming calls and receives screening codes dialed by the calling party. If the proper code is received, the control system will

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ring the telephone to which it is connected.” Col. 3, lines 34-38. The use of screening codes is key to the Fuller et al. invention, and all the actions by the invention are initiated by the caller entering screening codes. The Examiner incorrectly equates the calling party access code or “screening codes” of Fuller et al. with the POTS caller identification information.

According to Fuller et al., “When the control system 10 is in a call screening mode, incoming calls are detected by the ring detector 33 thereby causing the CPU 34 to answer the call by energizing the off hook relay 36. The calling party then dials a predetermined access code.” Col. 12, lines 18-22.” In contrast, in the method and apparatus of the claimed invention, unwanted calls are passively blocked, i.e., ***the caller does not know that they are being blocked, and the unwanted call is never answered.*** Consequently, Fuller et al., does not teach “a call manager configured to receive a call from a caller, and configured to identify the caller from caller identification information associated with the call”

Furthermore, with respect to claims 32, 41, and 53 of Fuller et al., the “artificial ring-back signal” (of Fuller et al.) is not the “a false ringing indication [sent] to a caller when the caller identification information matches an entry in a caller database” of the present invention. ***In Fuller et al., the system has already answered the unwanted from the caller, while in contrast, the unwanted call is never answered in the claimed invention.***

With respect to claims 49, 51, and 53, the “calling party access code” does not equate to the caller identification of the present invention, as caller identification information is information that is automatically sent by the caller, not something that the caller dials in after the phone is answered. Consequently, Fuller et al. cannot teach any of the limitation of claim 49: “means for receiving a call from a caller, the call including caller identification information; means for identifying caller identification information; means for accepting the call when the caller identification information matches an entry in a caller database” as Fuller et al. does not contemplate the caller identification of the present invention. Moreover, this same argument applies to claims 54-57 which depend on claim 49.

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CONCLUSION

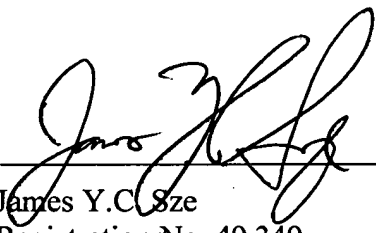
Applicant respectfully requests the withdrawal of the rejections.

Applicant believes that all claims are now in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (858) 509-4008.

Respectfully submitted,
PILLSBURY WINTHROP LLP

Dated: January 26, 2005

By: _____


James Y.C. Sze
Registration No. 49,349
PILLSBURY WINTHROP, LLP
11682 El Camino Real, Suite 200
San Diego, California 92130-2092
(858) 847-4189

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